



Decision and Reasons for Decision

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| Citation: | O14 and Gold Coast Hospital and Health Service [2026] QICmr 25 (18 February 2026) |
| Application Number: | 318635 |
| Applicant: | O14 |
| Respondent: | Gold Coast Hospital and Health Service |
| Decision Date: | 18 February 2026 |
| Catchwords: | ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - request for medical records - applicant submits that further documents exist and should have been located - whether agency has taken reasonable steps to locate relevant documents - whether access to further documents may be refused on the basis they are nonexistent - section 67(1) of the <i>Information Privacy Act 2009 (Qld)</i> and sections 47(3)(e) and 52(1)(a) of the <i>Right to Information Act 2009 (Qld)</i> ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - OUTSIDE OF SCOPE DOCUMENTS applicant requests access to documents that fall outside the scope of the applicant's request |

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Gold Coast Hospital and Health Service (**GCHHS**) under the *Information Privacy Act 2009 (Qld)* (**IP Act**)² for access to all their medical records held by GCHHS between a specific date range.³
2. GCHHS located 2318 pages and decided to release them in full to the applicant.⁴

¹ Access application dated 28 February 2025.

² On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023 (Qld)* (**IPOLA Act**) came into force, effecting changes to the IP Act and *Right to Information Act 2009 (Qld)* (**RTI Act**). As the access application was made before this change, the IP Act and RTI Act as in force prior to 1 July 2025 remain applicable to it in accordance with transitional provisions in Chapter 8, Part 3 of the IP Act and Chapter 7, Part 9 of the RTI Act. Accordingly, references to the IP Act and RTI Act in this decision are to those Acts as in force prior to 1 July 2025.

³ From 01 August 2021 to 15 January 2025.

⁴ Decision dated 3 April 2025. This is the *reviewable decision* for the purpose of this external review.

3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of GCHHS's decision on the basis that they considered further documents exist and should have been located⁵ - particularly:
 - RiskMan incident documentation, including code black entries
 - clinical deterioration notes and associated hospital response logs; and
 - internal investigation materials and relevant audit trails.
4. During the review GCHHS advised that Riskman incident documents and code black entries did not form part '[o]f the patient's medical record as it is not directly related to the clinical care of the patient, rather incident reports are used by our agency to identify risks, prevent future incidents, and improve safety measures of staff and patients.'⁶
5. In relation to the remaining further documents the applicant contested should exist, noting GCHHS's searches conducted and the released documents, OIC conveyed a preliminary view to the applicant⁷ that all reasonable steps had been taken to identify and locate documents relevant to the access application and access to further documents could be refused on the basis they are nonexistent or unlocatable.⁸
6. The applicant made submissions contending that Riskman documents and code black entries form part of their medical records and, as such, are captured by the scope of the application, and accordingly further documents exist that should have been located by GCHHS.⁹
7. Therefore, the issues for determination are as follows:
 - whether access to Riskman incident reports and code black entries may be refused because they fall outside the scope of the access application); and
 - whether access to any further information may be refused on the ground that is nonexistent and/or unlocatable.¹⁰
8. In making this decision, I have taken into account evidence, submissions, legislation and other material set out in these reasons (including footnotes). I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information and in doing so, have acted in accordance with section 58(1) of the HR Act.¹¹
9. The applicant raised a number of concerns about the Health Service and Federal government agencies which are outside the Information Commissioner's external review jurisdiction under the IP Act.¹² In making my decision in this external review, I have considered the applicant's submissions to the extent they are relevant to the issues for determination in the context of the information in issue.
10. For the reasons explained below, I vary GCHHS's decision and find that:

⁵ Email dated 16 May 2025. While the application was received outside the 20 business day timeframe stated in section 101(1)(d) of the IP Act, OIC allowed extra time in this case.

⁶ Submission from GCHHS received 10 July 2025.

⁷ Letter dated 9 September 2025.

⁸ Under section 52(1) of the RTI Act.

⁹ Email correspondence dated 17, 21, 23 July 2025 and 18 October 2025.

¹⁰ Sections 47(3)(e) and 52(1) of the RTI Act.

¹¹ OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23].

¹² External review application and correspondence received on 17, 21, 23 July 2025 and 18 October 2025. The applicant raised concerns regarding (i) missing information and integrity of data transfer from Queensland Health into the *National MyHealth Record*, (ii) concerns about Kiteworks delivery transfer platform used by GCHHS and (iii) concerns regarding the validity of a discharge document. The applicant seeks amendment of their personal information. The remedy the applicant seeks (amendment) cannot be considered in this external review. The applicant may wish to lodge an amendment application.

- access to some of the documents sought by the applicant are outside the scope of the access application; and
- access to the remaining further documents may be refused on the basis they are nonexistent or unlocatable.¹³

Documents outside the scope of an application

11. As noted in paragraph 1, the applicant made an application under the IP Act seeking access to all their medical records held by GCHHS between a specific date range.¹⁴
12. As part of the external review application, the applicant indicated that ‘*RiskMan incident documentation, including Code Black entries*’ were missing from the released documents. OIC requested further information from GCHHS.¹⁵ In response, GCHHS submitted:¹⁶

RiskMan Incident documents’ does not form part of the patient’s medical record as it is not directly related to the clinical care of the patient, rather incident reports are used by our agency to identify risks, prevent future incidents, and improve safety measures of staff and patients.

13. OIC conveyed this view to the applicant.¹⁷ The applicant contested this view and stated:¹⁸

I respectfully disagree that RiskMan and Code Black incident records fall outside the scope of my application. These datasets form part of the factual matrix of my clinical outcome, including emergency deterioration and duty-of-care events. Such records are not purely workplace safety data; they contain material observations of my clinical condition and staff actions.

14. GCHHS further explained:¹⁹

RiskMan Incident documents are used for capturing, recording and managing an incident occurrence. These documents are used to identify causes of incidents, whether the incidents root cause is a systemic deficiency and provide recommendations for corrective measures. I note that any instances of clinical observations and/or deterioration of the patient, obtained from or during the incident, are entered in their medical record.

GCHHS reiterates that if [the applicant] seeks RiskMan reports, [they are] encouraged to apply to our agency.

15. The Queensland Health RiskMan information system refers to a clinical incident management system used by Queensland Health facilities for recording, reporting and managing clinical incidents.²⁰ A RiskMan report is a distinct type of document used for reporting health and safety incidents and includes recommendations, assessment or potential hazards to improve workplace safety and has been created for the purposes of compliance with Work Health and Safety regulation and mandatory reporting. Relevantly, as GCHHS has submitted, any instances of clinical observations obtained from or during an incident, are entered in the applicant’s medical records.
16. Similarly, code black alerts have been created as part of the security guidelines for the protection of staff. They refer to a safety procedure/protocol which may be called in

¹³ Under sections 47(3)(e) and 52(1) of the RTI Act.

¹⁴ From 01 August 2021 to 15 January 2025.

¹⁵ Letter dated 10 July 2025.

¹⁶ By email correspondence dated 10 July 2025.

¹⁷ Letter dated 17 July 2025.

¹⁸ Email dated 17, 21 and 23 July 2025 and 18 October 2025.

¹⁹ Letter dated 19 November 2025.

²⁰ available at [Clinical incident management guideline | Health service directive guideline | Queensland Health](#)

relation to security risks within a hospital.²¹ These codes do not comprise a patient's medical records as it does not describe diagnosis, treatment or test results but rather references relating to staff well-being and WHS. To the extent that a description of the incident leading to the creation of such reports appears in the applicant's medical records - and has been released to the applicant, the RiskMan and code black reports created following such incident would not be captured within the terms of the access application which is framed to seek access to [the applicant's] *medical records*.

17. Relevantly, GCHHS has invited the applicant to make a separate access application should they wish to access this information from GCHHS.
18. It is well established that an applicant cannot unilaterally expand the scope of an access request on external review.²² Further, the Information Commissioner has previously expressed the view that the scope of an original application sets the parameters for the agency's searches.²³
19. I am satisfied that Riskman incident reports and code black entries are not captured by the scope of the access application and as such can be excluded from consideration as they fall outside the scope of the access application.

Nonexistent or unlocatable documents

20. The RTI Act provides individuals with a general right to access documents held by a Queensland government agency.²⁴ While the legislation is to be administered with a pro-disclosure bias,²⁵ the right of access is subject to certain limitations, including grounds for refusing access.²⁶
21. Relevantly, access to a document may be refused if it is nonexistent or unlocatable.²⁷ A document will be nonexistent if there are reasonable grounds to be satisfied it does not exist.²⁸ A document will be unlocatable if it has been or should be in the agency's possession and all reasonable steps have been taken to find the document, but it cannot be found.²⁹
22. To be satisfied that a document does not exist, the Information Commissioner has previously identified a number of key factors to consider, including the agency's structure, its recordkeeping practices and procedures and the nature and age of requested documents.³⁰ By considering relevant key factors, a decision-maker may conclude that a particular document was not created because, for example the agency's processes do not require creation of that specific document. In such instances, it is not necessary for the agency to search for the document, but sufficient that the circumstances to account for the nonexistence are adequately explained.

²¹ See Queensland Health's 2022 Security Guidelines at <<https://www.health.qld.gov.au/data/assets/pdf/file/0023/1197023/gh-gdl-502.pdf>.

²² *Fennelly and Redland City Council* (Unreported, Queensland Information Commissioner, 21 August 2012) at [15].

²³ *Cannon and Australian Quality Egg Farms Ltd* (1994) 1 QAR 491 at [8]; *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) at [33]; *Van Veenendaal and Queensland Police Service* [2017] QICmr 36 (28 August 2017) at [15].

²⁴ Section 23 of the RTI Act.

²⁵ Section 44 of the RTI Act.

²⁶ Section 47 of the RTI Act. Those grounds are however, to be interpreted narrowly: see section 47(2)(a) of the RTI Act.

²⁷ Sections 47(3)(e) and 52 of the RTI Act.

²⁸ Section 52(1)(a) of the RTI Act.

²⁹ Section 52(1)(b) of the RTI Act.

³⁰ These factors are identified in *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) at [19], which adopted the Information Commissioner's comments in *PDE and the University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) at [37]-[38]. These factors were more recently considered in *B50 and Department of Justice and Attorney-General* [2024] QICmr 33 (7 August 2024) at [15], *T12 and Queensland Police Service* [2024] QICmr 8 (20 February 2024) at [12], and *G43 and Office of the Director of Public Prosecutions* [2023] QICmr 50 (12 September 2023) at [19].

23. Where searches are relied on to justify a decision that the documents do not exist, all reasonable steps must be taken to locate the documents. What constitutes reasonable steps will vary from case to case, depending on which of the key factors are most relevant in the circumstances. The Information Commissioner's external review functions include investigating and reviewing whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.³¹
24. On an external review, the agency or Minister who made the decision under review has the onus of establishing that the decision was justified or that the Information Commissioner should give a decision adverse to the applicant.³² However, where the issue of missing documents is raised, the applicant bears a practical onus of demonstrating that the agency has not discharged its obligation to locate

Searches, evidence and submissions

25. The applicant sought access to *'all medical records'* relating to them. As noted at paragraph 2, GCHHS located 2318 pages and disclosed them in full to the applicant. In seeking an external review, the applicant submitted that clinical deterioration notes and internal investigation material were missing from the released documents and stated that *'[t]hese documents are critical to the accuracy and completeness of my personal health records.'*³³
26. GCHHS requested further clarification to allow conduct further searches.³⁴ Particularly it requested further information regarding the time at which the documents raised by the applicant were created and also asked if OIC could *'please clarify with the applicant what is meant by 'clinical deterioration notes and associated hospital response logs'.*
27. Relevantly, GCHHS advised that if these records were in existence within the timeframe of the access application, *'they would have formed part of the 'ieMR document' and have been provided in full in accordance with [individual's] access decision.'*³⁵
28. In response, the applicant provided details regarding the further documents that in their view, exist and had not been located.³⁶ They raised:
- two surgeries missing from GCUH records: *'I confirm that I underwent a [procedure 1] and [procedure 2] at Gold Coast University Hospital (GCUH) in June and July 2024, respectively. These two procedures are entirely missing from the 2318 pages disclosed via the RTI/IP process'*
 - undocumented Hospital Admissions: *'There are also undocumented hospital admissions in September 2024 that are not logged or accounted for in the material provided'*
 - Missing discharge summaries: *'attached pathology reports from subsequent surgeries (Oct–Nov 2021 and 2024) for which no discharge summaries were ever included in the records provided or uploaded to My Health Record.'*

³¹ Section 130(2) of the RTI Act. The Information Commissioner also has power under section 102 of the RTI Act to require additional searches to be conducted during an external review. The Queensland Civil and Administrative Tribunal confirmed in *Webb v Information Commissioner* [2021] QCATA 116 at [6] that the RTI Act *'does not contemplate that [the Information Commissioner] will in some way check an agency's records for relevant documents'* and that, ultimately, the Information Commissioner is dependent on the agency's officers to do the actual searching for relevant documents.

³² Section 87(1) of the RTI Act.

³³ External review application dated 16 May 2025.

³⁴ Email dated 10 July 2025.

³⁵ Email dated 10 July 2025.

³⁶ Email correspondence dated 17, 21 and 23 July 2025.

29. The applicant provided³⁷ four photos of the first page of pathology reports with specific dates and submitted that the discharge summaries for those four dates were missing from the released documents.
30. Having reviewed the information available, OIC formed a view that:
- documents referring to the procedure 1 and procedure 2 had been released by GCHHS as part of its initial decision³⁸
 - details regarding an appointment in September 2024 were recorded in the released material. The information indicated that the applicant attended GCHHS for an outpatient appointment. There was no indication that the applicant had been admitted in such date;³⁹ and
 - discharge summaries for the four dates provided by the applicant were located and released by GCHHS as part of its initial decision.⁴⁰
31. OIC sought clarification from GCHHS regarding whether information responding to the applicant's concerns was contained within the documents located. In response, GCHHS provided the following explanation regarding the applicant's specific ongoing concerns:⁴¹
- *With regards to [the applicant's first procedure], the records detailing this procedure can be found on pages 640 to 643 of [the applicant's] ieMR. Further, the records pertaining to [the applicant's second procedure] can be found on pages 315, 542-558.*
 - *GCHHS confirms that [the applicant] had no admissions in September 2024. Rather, [the applicant] presented to outpatient appointments with [named doctor] on [date 1 and date 2] September 2024. The clinical notes pertaining to these appointments can be located on pages 93 and 507 for [the applicant's] ieMR.*
32. OIC conveyed a view to the applicant⁴² that, noting GCHHS's searches and the released documents, all reasonable steps have been taken to identify and locate the documents the applicant submits should exist and to the extent they exist, have already been released to the applicant, and therefore, access to any further documents could be refused on the ground they are nonexistent or unlocatable. In response, the applicant maintained their position that the documents they continue to seek should exist and had not been released.⁴³

Findings

33. Having examined the information before me, including the outcome of GCHHS's searches and submissions regarding the released documents, I am satisfied that GCHHS has taken all reasonable steps to locate relevant documents and to the extent they exist, have been released to the applicant. Therefore, I am satisfied that access to further documents, may be refused on the basis that such documents are nonexistent or unlocatable. While I accept that the applicant has ongoing concerns that additional documents exist, there is insufficient evidence before me upon which I could reasonably require GCHHS to conduct further searches.

³⁷ By email dated 23 July 2025.

³⁸ Of the released material: Page 640, note on page 315, pages 642, 645, 648, 558 and 559.

³⁹ Of the released material: Pages 93, 507 and 526.

⁴⁰ Of the released material; Pages 23 to 28, 29 to 35, 315, 527, 558 and 559.

⁴¹ Submission dated 19 November 2025.

⁴² Letter dated 9 September 2025.

⁴³ Email dated 18 October 2025.

34. Based on the information before me, including the located documents, GCHHS's search records and submissions, I am satisfied that:
- documents about the two procedures as referenced by the applicant have been located and released
 - an explanation regarding the appointment in September 2024 has been provided and sufficiently addressed the reasons why there are no admission records for that date; and
 - the four discharge summaries referred to by the applicant as missing, have been located and released to the applicant.
35. Whilst the applicant submits that '*Several discharge summaries and pathology reports remain unaccounted for despite being referenced in subsequent medical correspondence and My Health Record extracts*',⁴⁴ to the extent the identified discharge summaries have been located and released, I find that there are no further reasonable searches that GCHHS could undertake.⁴⁵
36. For the reasons set out above, I find that the documents the applicant considers to be missing have been released to the applicant and therefore, GCHHS has taken all reasonable steps to locate documents relevant to the scope of the access application, and access may be refused to any further documents on the basis they are nonexistent or unlocatable.⁴⁶

DECISION

37. For the reasons set out above, I vary the reviewable decision⁴⁷ and find that:
- access to some of the documents sought by the applicant are outside the scope of the access application; and
 - access to the remaining further documents may be refused on the basis they are nonexistent or unlocatable.⁴⁸
38. I have made this decision under section 123 of the IP Act as a delegate of the Information Commissioner, under section 139 of the IP Act.



K Zaidiza
Manager, Right to Information

Date: 18 February 2026

⁴⁴ Email dated 18 October 2025.

⁴⁵ The applicant also submitted their intention is [t]he '*correction of omissions to ensure the integrity of my health records*'. The remedy the applicant is seeking cannot be considered in this external review which is limited to determine the applicant's right to access information. The applicant may wish to lodge an amendment application.

⁴⁶ Under section 47(3)(e) and 52(1) of the RTI Act. In the circumstances of this case, I do not consider SCHHS was required to undertake a backup system search under section 52(2) of the RTI Act.

⁴⁷ Under section 123(1)(b) of the IP Act.

⁴⁸ Under sections 47(3)(e) and 52(1) of the RTI Act.